

INDIANA DEPARTMENT OF TRANSPORTATION

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Indianapolis, Indiana 46204

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

JAN 21 2020

January 21, 2020

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Katherine Noel, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

RE: Waiver of Application of 42 IAC 1-5-1 (the "Gift Rule") for Certain Items of Value That Will Be Received by INDOT Employees for the ATSSA Annual Convention and Traffic Expo on January 24-28, 2020.

Chairperson Noel:

Joe McGuinness, the appointing authority of the Indiana State Department of Transportation ("INDOT"), has designated authority to me as the agency's ethics officer to waive application of the Gift Rule in individual cases when consistent with the public interest. I am hereby waiving application of 42 IAC 1-5-1(a) for INDOT employee Katherine Smutzer, so that she may accept a scholarship to attend the American Traffic Safety Services Association ("ATSSA") Annual Convention and Traffic Expo ("ATSSA Expo") January 24-28, 2020.

The ATSSA Expo will be held at the Ernest N. Morial Convention Center in New Orleans, Louisiana. The INDOT employee's registration fee and travel expenses, including transportation, some meals, and hotel, will be paid by the American Traffic Safety Services Association in the total amount of Two Thousand One Hundred Eighty Dollars (\$2,180.00). The scholarship specifically includes the following items of value: (a) travel (\$300); (b) lodging (\$815); (c) registration (\$715); and (d) food (\$350).

ATSSA is a trade association representing the roadway safety infrastructure industry, focused on providing safety training and certification to stakeholders, while working to identify and solve road safety issues through member and stakeholder partnering. Membership in ATSSA is comprised of private companies and other entities participating in the roadway safety industry, including firms that have a business relationship with the Indiana Department of Transportation. The scholarship awarded to Katherine Smutzer will be funded by member dues and event sponsorships. It is possible that the scholarship will be funded in part by the dues and sponsorship dollars of companies that have a business relationship with INDOT, or that may otherwise may seek to influence Department decision making.

42 IAC 1-5-1(a) prohibits Department employees from accepting food, drinks, registration fees, and travel expenses from a person with whom INDOT has a business relationship. Because INDOT has a business relationship with some ATSSA members and sponsors, the Department cannot accept such items of value paid for by ATSSA without obtaining a waiver under 42 IAC 1-5-1(c).

The ATSSA Expo is primarily educational in nature, with some networking opportunities. The listed INDOT employee will attend all educational sessions, as well as participating in networking opportunities. The employee will also be available to answer attendees' questions about doing business with INDOT, and INDOT operations. Katherine Smutzer will also have the opportunity to exchange technical and

administrative expertise with representatives from other public transportation entities, private companies, and other technical experts regarding traffic safety. The ATSSA will therefore contribute to the professional development of the subject employee, and enhance INDOT operations through Ms. Smutzer's transmission of new technical and administrative knowledge to the Department. The direction provided by Katherine Smutzer to attendees with a business with INDOT will further enhance operations by increasing vendor understanding of INDOT work, requirements, and expectations.

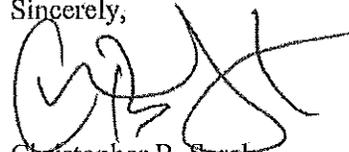
Indiana Code 8-23-2- 4.1(4)(A) provides that INDOT is responsible for the "construction, reconstruction, improvement, maintenance, and repair of (state) highways" and Indiana Code 8-23-2- 5(a)(4) imposes upon INDOT the statutory duty in to "evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques." By attending the ATSSA Expo, the identified INDOT employee will be educated concerning developments in the roadway safety industry, including innovate means and methods regarding traffic control and safety. The IINDOT employee will further have the opportunity to build better partnerships with attendee firms that do business with the Department, and gather information about the best practices of other public transportation agencies that attend the event.

Therefore, it is my opinion that it is consistent with the public interest for INDOT employee Katherine Smutzer to accept a scholarship to attend the ATSSA Expo, which has a total value of Two Thousand One Hundred Eighty Dollars (\$2,180.00). Based on this finding, I am hereby waiving application of 42 IAC 1-5-1(a) to allow Katherine Smutzer to accept the above enumerated items of value from ATSSA so that she may attend the ATSSA Annual Convention and Traffic Expo on January 24-28, 2020 in New Orleans, Louisiana.

To prevent any other issues arising under the gift rule, the below signed ethics officers has instructed the employee not to accept any other item of value from an attendee of the ATSSA Expo. To be absolutely sure that the gift rule is not violated, the employee has been be directed to assume all attendees have a business relationship with INDOT or may attempt to influence official decision making.

If you need additional information or have any questions about this letter, please feel free to contact me at (317) 234-2115 or chserak@indot.in.gov.

Sincerely,



Christopher B. Serak,
Prequalification Director &
Ethics Officer
Indiana Department of Transportation